

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ DEC 14 2022 ★

BROOKLYN OFFICE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X

UNITED STATES OF AMERICA, and
STATE OF NEW YORK, and the
CITY OF NEW YORK,
ex rel. HYUN YU, PHARM.D.,

Plaintiff,

v.

NUCARE PHARMACY WEST, LLC,
THOMAS WEBSTER, M.D.,
LEONARD MEGGS, M.D.,
NAHESI LAMBERT-DOORN, M.D.,

Defendants.

-----X

Civil Action No.
19-CV-6466

(Komitee, J.)
(Pollack, M.J.)

FILED UNDER SEAL

**NOTICE OF THE UNITED STATES THAT
IT IS NOT INTERVENING AT THIS TIME**

In its last Order, dated August 3, 2022, the Court indicated that the Government must make its intervention decision on or before November 15, 2022, and that no further extensions of time would be granted. The Government's investigation has not been completed and, as such, the United States is not able to decide, as of the Court's deadline, whether to proceed with the action. Accordingly, the United States hereby notifies the Court that it is not intervening at this time. However, the Government's investigation will continue.

Although the United States is not intervening at this time, it respectfully refers the Court to 31 U.S.C. § 3730(b)(1), which allows the relator to maintain the action in the name of the United States; providing, however, that the "action may be dismissed only if the court and the Attorney General give written consent to the dismissal and their reasons for consenting." *Id.* Therefore, the United States requests that, should either the relator or the defendant propose that

this action be dismissed, settled, or otherwise discontinued, this Court will solicit the written consent of the United States before ruling or granting its approval.

Furthermore, pursuant to 31 U.S.C. § 3730(c)(3), the United States requests that all pleadings filed in this action be served upon it; the United States also requests that orders issued by the Court be sent to the Government's counsel. The United States reserves its right to order any deposition transcripts, to intervene in this action, for good cause, at a later date, and to seek the dismissal of the relator's action or claim. The United States also requests that it be served with all notices of appeal.

Finally, the Government requests that the relator's Complaint, this Notice, and the attached proposed Order be unsealed. The United States requests that all other papers on file in this action remain under seal because in discussing the content and extent of the United States' investigation, such papers are provided by law to the Court alone for the sole purpose of evaluating whether the seal and time for making an election to intervene should be extended.

A proposed order accompanies this notice.

Respectfully submitted,

Dated: Brooklyn, New York
November 15, 2022

BREON PEACE
UNITED STATES ATTORNEY
Eastern District of New York
271 Cadman Plaza East
Brooklyn, New York 11201

By: /s/ Richard K. Hayes
Richard K. Hayes
Assistant U.S. Attorney
(718) 254-6050
Richard.Hayes@usdoj.gov